

FEB 29 1984

HOUSE FILE 2398

Place On Calendar

BY COMMITTEE ON TRANSPORTATION

(Formerly Study Bill 757)

Passed House, Date 3-8-84 (p. 842) Passed Senate, Date 3-26-84
 Vote: Ayes 96 Nays 0 Vote: Ayes 48 Nays 0
 Approved May 8, 1984

A BILL FOR

1 An Act allowing a maximum set-aside of ten percent of the total
 2 dollar amount of federal aid highway construction contracts
 3 let by the state department of transportation for bidding
 4 by prequalified disadvantaged business enterprises.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2398

H-5376

1 Amend House File 2398 as follows:

2 1. Page 2, line 23, by inserting after the word
 3 "enterprise." the following: "This section shall
 4 not be construed as limiting the commission's right
 5 to refuse any or all disadvantaged business enterprise
 6 bids."

7 2. Page 2, by inserting after line 23 the
 8 following:

9 "Sec. ____ . Section 314.14 created under this Act
 10 is repealed at such time as section 105(f) of the
 11 Surface Transportation Assistance Act of 1982, Pub.
 12 L. No. 97-424, 96 Stat. 2100, expires pursuant to
 13 its own terms or by an act of congress."

Adopted 3/8 (p. 842)
 H-5376 FILED MARCH 2, 1984

BY WELDEN of Hardin
 MILLER of Woodbury
 WOODS of Polk

HF 2398

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1 Section 1. NEW SECTION. 314.14 CONTRACTS SET ASIDE FOR
2 DISADVANTAGED BUSINESS ENTERPRISES.

3 1. DEFINITIONS. As used in this section:

4 a. "Disadvantaged business enterprise" means a small
5 business concern which meets either of the following:

6 (1) Is at least fifty-one percent owned by one or more
7 socially and economically disadvantaged individuals.

8 (2) Whose management and daily business operations are
9 controlled by one or more of the socially and economically
10 disadvantaged individuals who own it.

11 b. "Small business concern" means a business which is
12 independently owned and operated and which is not dominant
13 in its field of operation.

14 c. "Socially and economically disadvantaged individuals"
15 means those individuals who are citizens of the United States
16 or who are lawfully admitted permanent residents and who are
17 Black Americans, Hispanic Americans, Native Americans, Asian-
18 Pacific Americans, Asian-Indian Americans, or any other
19 minority or individuals found to be disadvantaged by the
20 United States small business administration. However, the
21 department may also determine, on a case-by-case basis, that
22 an individual who is not a member of one of the enumerated
23 groups is socially and economically disadvantaged. A
24 rebuttable presumption exists that individuals in the following
25 groups are socially and economically disadvantaged.

26 (1) "Black Americans" which includes persons having origins
27 in any of the black racial groups of Africa.

28 (2) "Hispanic Americans" which includes persons of Mexican,
29 Puerto Rican, Cuban, Central or South American, or other
30 Spanish culture or origin, regardless of race.

31 (3) "Native Americans" which includes persons who are
32 American Indians, Eskimos, Aleuts, or Native Hawaiians.

33 (4) "Asian-Pacific Americans" which includes persons whose
34 origins are from Japan, China, Taiwan, Korea, Vietnam, Laos,
35 Cambodia, the Philippines, Samoa, Guam, the United States

1 Trust Territories of the Pacific, and the Northern Marianas.

2 (5) "Asian-Indian Americans" which includes persons whose
3 origins are from India, Pakistan, and Bangladesh.

4 d. "Prequalified" means that the disadvantaged business
5 enterprise is currently approved by the department as a
6 disadvantaged business enterprise, is a recognized contractor
7 engaged in the class of work provided for in the plans and
8 specifications, possesses sufficient resources to complete
9 the work, and is able to furnish a performance bond for one
10 hundred percent of the contract.

11 2. SET-ASIDE. Notwithstanding section 314.1, there may
12 be set aside for bidding by prequalified disadvantaged business
13 enterprises a percentage of the total annual dollar amount
14 of public contracts let by the department. The annual dollar
15 amount set aside for bidding by prequalified disadvantaged
16 business enterprises shall not exceed ten percent of the total
17 dollar amount of federal aid highway construction contracts
18 let by the department. The department's chief engineer may
19 estimate the set-aside amount at the beginning of each fiscal
20 year and a suit shall not be brought by any party as a result
21 of this estimate. Set-aside contracts will be awarded to
22 the lowest responsible prequalified disadvantaged business
23 enterprise.

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EXPLANATION

25 The Surface Transportation Assistance Act of 1982, section
26 105(f), mandates, except to the extent that the United States
27 secretary of transportation otherwise determines, that not
28 less than ten percent of the federal highway aid authorized
29 to states be expended with small business concerns owned and
30 controlled by socially and economically disadvantaged indi-
31 viduals. This bill allows the state department of transpor-
32 tation to set aside no more than ten percent of the total
33 dollar amount of federal aid highway construction contracts
34 let by the department to prequalified disadvantaged business
35 enterprises.

36 The bill takes effect July 1 following its enactment.

Sen. Transportation 3/13 Amend per 54546
to Bill 3/20 (p. 941)

HOUSE FILE 2398

BY COMMITTEE ON TRANSPORTATION

(As Amended and Passed by the House)

Passed House, Date 4-9-84 (p. 1820) Passed Senate, Date 3-26-84 (p. 1031)

Vote: Ayes 97 Nays 0 Vote: Ayes 48 Nays 0

Approved May 8, 1984

A BILL FOR

1 An Act allowing a maximum set-aside of ten percent of the total
2 dollar amount of federal aid highway construction contracts
3 let by the state department of transportation for bidding
4 by prequalified disadvantaged business enterprises.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. NEW SECTION. 314.14 CONTRACTS SET ASIDE FOR
2 DISADVANTAGED BUSINESS ENTERPRISES.

3 1. DEFINITIONS. As used in this section:

4 a. "Disadvantaged business enterprise" means a small
5 business concern which meets either of the following:

6 (1) Is at least fifty-one percent owned by one or more
7 socially and economically disadvantaged individuals.

8 (2) Whose management and daily business operations are
9 controlled by one or more of the socially and economically
10 disadvantaged individuals who own it.

11 b. "Small business concern" means a business which is
12 independently owned and operated and which is not dominant
13 in its field of operation.

14 c. "Socially and economically disadvantaged individuals"
15 means those individuals who are citizens of the United States
16 or who are lawfully admitted permanent residents and who are
17 Black Americans, Hispanic Americans, Native Americans, Asian-
18 Pacific Americans, Asian-Indian Americans, or any other
19 minority or individuals found to be disadvantaged by the
20 United States small business administration. However, the
21 department may also determine, on a case-by-case basis, that
22 an individual who is not a member of one of the enumerated
23 groups is socially and economically disadvantaged. A
24 rebuttable presumption exists that individuals in the following
25 groups are socially and economically disadvantaged.

26 (1) "Black Americans" which includes persons having origins
27 in any of the black racial groups of Africa.

28 (2) "Hispanic Americans" which includes persons of Mexican,
29 Puerto Rican, Cuban, Central or South American, or other
30 Spanish culture or origin, regardless of race.

31 (3) "Native Americans" which includes persons who are
32 American Indians, Eskimos, Aleuts, or Native Hawaiians.

33 (4) "Asian-Pacific Americans" which includes persons whose
34 origins are from Japan, China, Taiwan, Korea, Vietnam, Laos,
35 Cambodia, the Philippines, Samoa, Guam, the United States

1 Trust Territories of the Pacific, and the Northern Marianas.

2 (5) "Asian-Indian Americans" which includes persons whose
3 origins are from India, Pakistan, and Bangladesh.

4 d. "Prequalified" means that the disadvantaged business
5 enterprise is currently approved by the department as a
6 disadvantaged business enterprise, is a recognized contractor
7 engaged in the class of work provided for in the plans and
8 specifications, possesses sufficient resources to complete
9 the work, and is able to furnish a performance bond for one
10 hundred percent of the contract.

11 2. SET-ASIDE. Notwithstanding section 314.1, there may
12 be set aside for bidding by prequalified disadvantaged business
13 enterprises a percentage of the total annual dollar amount
14 of public contracts let by the department. The annual dollar
15 amount set aside for bidding by prequalified disadvantaged
16 business enterprises shall not exceed ten percent of the total
17 dollar amount of federal aid highway construction contracts
18 let by the department. The department's chief engineer may
19 estimate the set-aside amount at the beginning of each fiscal
20 year and a suit shall not be brought by any party as a result
21 of this estimate. Set-aside contracts will be awarded to
22 the lowest responsible prequalified disadvantaged business
23 enterprise. This section shall not be construed as limiting
24 the commission's right to refuse any or all disadvantaged
25 business enterprise bids.

26 Sec. 2. Section 314.14 created under this Act is repealed
27 at such time as section 105(f) of the Surface Transportation
28 Assistance Act of 1982, Pub. L. No. 97-424, 96 Stat. 2100,
29 expires pursuant to its own terms or by an act of congress.

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HOUSE FILE 2398

S-5454

- 1 Amend House File 2398 as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 18, by inserting after the word
- 4 "department" the following: "and transit dollars
- 5 administered by the department".
- 6 2. Page 2, line 18, by striking the words
- 7 "department's chief engineer" and inserting in lieu
- 8 thereof the word "director".
- 9 3. Title page, line 2, by striking the words
- 10 "highway construction".

S-5454 FILED
MARCH 20, 1984

BY COMMITTEE ON TRANSPORTATION
C. JOSEPH COLEMAN, CHAIR

Adopted 3/26 (p. 1030)

SENATE AMENDMENT TO HOUSE FILE 2398

H-5911

- 1 Amend House File 2398 as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 18, by inserting after the word
- 4 "department" the following: "and federal aid transit
- 5 dollars administered by the department".
- 6 2. Page 2, line 18, by striking the words
- 7 "department's chief engineer" and inserting in lieu
- 8 thereof the word "director".
- 9 3. Title page, line 2, by striking the words
- 10 "highway construction".

H-5911 FILED MARCH 28, 1984

RECEIVED FROM THE SENATE

Done concurred 4/9 (p. 1820)

HOUSE FILE 2398

AN ACT

ALLOWING A MAXIMUM SET-ASIDE OF TEN PERCENT OF THE TOTAL DOLLAR AMOUNT OF FEDERAL AID CONTRACTS LET BY THE STATE DEPARTMENT OF TRANSPORTATION FOR BIDDING BY PREQUALIFIED DISADVANTAGED BUSINESS ENTERPRISES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 314.14 CONTRACTS SET ASIDE FOR DISADVANTAGED BUSINESS ENTERPRISES.

1. DEFINITIONS. As used in this section:

a. "Disadvantaged business enterprise" means a small business concern which meets either of the following:

(1) Is at least fifty-one percent owned by one or more socially and economically disadvantaged individuals.

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

b. "Small business concern" means a business which is independently owned and operated and which is not dominant in its field of operation.

c. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States or who are lawfully admitted permanent residents and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or any other minority or individuals found to be disadvantaged by the United States small business administration. However, the department may also determine, on a case-by-case basis, that an individual who is not a member of one of the enumerated groups is socially and economically disadvantaged. A rebuttable presumption exists that individuals in the following groups are socially and economically disadvantaged.

(1) "Black Americans" which includes persons having origins in any of the black racial groups of Africa.

(2) "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

(3) "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.

(4) "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the United States Trust Territories of the Pacific, and the Northern Marianas.

(5) "Asian-Indian Americans" which includes persons whose origins are from India, Pakistan, and Bangladesh.

d. "Prequalified" means that the disadvantaged business enterprise is currently approved by the department as a disadvantaged business enterprise, is a recognized contractor engaged in the class of work provided for in the plans and specifications, possesses sufficient resources to complete the work, and is able to furnish a performance bond for one hundred percent of the contract.

2. SET-ASIDE. Notwithstanding section 314.1, there may be set aside for bidding by prequalified disadvantaged business enterprises a percentage of the total annual dollar amount of public contracts let by the department. The annual dollar amount set aside for bidding by prequalified disadvantaged business enterprises shall not exceed ten percent of the total dollar amount of federal aid highway construction contracts let by the department and federal aid transit dollars administered by the department. The director may estimate the set-aside amount at the beginning of each fiscal year and a suit shall not be brought by any party as a result of this estimate. Set-aside contracts will be awarded to the lowest responsible prequalified disadvantaged business enterprise. This section shall not be construed as limiting the commission's right to refuse any or all disadvantaged business enterprise bids.

Sec. 2. Section 314.14 created under this Act is repealed at such time as section 105(f) of the Surface Transportation Assistance Act of 1982, Pub. L. No. 97-424, 96 Stat. 2100, expires pursuant to its own terms or by an act of congress.

DONALD D. AVENSON
Speaker of the House

CHARLES P. MILLER
President Pro Tempore of the
Senate

I hereby certify that this bill originated in the House and is known as House File 2398, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 8, 1984

TERRY E. BRANSTAD
Governor